

### **REMARKS/ARGUMENTS**

By this response, claims 1, 3, 4, 8, and 10 have been amended. Claims 11-15 have been added. Support for the amendments to the claims may be found in the original claims and throughout the application as filed. Reconsideration of the outstanding rejections in light of the comments set forth below is respectfully requested.

### **Elections/Restrictions**

Applicants acknowledge that the restriction requirement has been made final. Applicants reserve the right to pursue the non-elected subject matter in one or more divisional applications. In addition, upon obtaining allowance of the elected claims, the Examiner is asked to consider rejoinder of the method claims, i.e., the claims of Group III, claims 6, 7, 9, and 10.

### **Priority**

Regarding foreign priority, the Examiner notes that copies of PCT/FR02/01218 and FR 99/12643 are not found in this or any prior application. Although Applicants believe that such documents should be provided by the WIPO, nevertheless, to advance prosecution, Applicants have included a copy of FR 99/12643. Applicants also submit that PCT/FR02/01218 has published as WO 02/083656, which was cited by the Examiner in the outstanding office action. Thus, a copy of this document is present in the application file.

Regarding domestic priority, Applicants have amended the specification in order to insert reference to 10/681,002 and 10/915,001 as requested by the Examiner. In addition, Applicants have included the relationship that PCT/FR04/02537 is a continuation-in-part of 10/681,002 and 10/915,001.

The Examiner also indicates that Application Nos. 10/681,002 and 10/915,001 fail to provide adequate support or enablement for one or more claims of this application. Specifically, the Examiner states that the 2<sup>nd</sup>, 6<sup>th</sup>-8<sup>th</sup>, and 10<sup>th</sup>-28<sup>th</sup> compounds of claim 1 are not found in the prior applications or is found only as an HCl salt. The Examiner states that 4-[2-(1-aminocyclopentyl)-1,3-thiazol-4-yl]-2,6-di-*tert*-butylphenol is not found in Application No. 10/681,002 and is only found as the HCl salt in application 10/915,001.

In response, Applicants respectfully disagree. Specifically, virtually all of the compounds claimed in claim 1 find literal support in the original claims of 10/681,002 and many also find support in the Examples of 10/915,001. The following table lists the support of each of the compounds as claimed.

Compound	Support in 10/681,002 and/or 10/915,001
butyl 2-[4-(4-aminophenyl)-1 <i>H</i> -imidazol-2-yl]ethylcarbamate	Claim 30 in 10/681,002; Example 469, 10/915,001
<i>N</i> ,2-dimethyl-1-[4-(10 <i>H</i> -phenothiazin-2-yl)-1,3-thiazol-2-yl]propan-1-amine	Claim 2 in 10/681,002; Example 470, 10/915,001
<i>N</i> ,2-dimethyl-1-[4-(10 <i>H</i> -phenoxazin-2-yl)-1,3-thiazol-2-yl]propan-1-amine	Paragraph [2528] in 10/681,002; Example 471, 10/915,001
<i>N</i> ,3-dimethyl-1-[4-(10 <i>H</i> -phenoxazin-2-yl)-1,3-thiazol-2-yl]butan-1-amine	Paragraph [2530] in 10/681,002; Example 472, 10/915,001
<i>N</i> ,3-dimethyl-1-[4-(10 <i>H</i> -phenothiazin-2-yl)-1,3-thiazol-2-yl]butan-1-amine	Claim 2 in 10/681,002; Example 473, 10/915,001
2,6-di- <i>tert</i> -butyl-4-{2-[3-methyl-1-(methylamino)butyl]-1,3-thiazol-4-yl}phenol	Claim 2 in 10/681,002; Example 474, 10/915,001
[4-(3,5-di- <i>tert</i> -butylphenyl)-1,3-thiazol-2-yl]methylaniline	Claim 2 in 10/681,002; Example 475, 10/915,001
2,6-di- <i>tert</i> -butyl-4-{2-[(1 <i>S</i> )-1-(methylamino)ethyl]-1,3-thiazol-4-yl}phenol	Paragraph [2539] in 10/681,002; Example 476, 10/915,001
2,6-di- <i>tert</i> -butyl-4-{2-[(1 <i>R</i> )-1-(methylamino)ethyl]-1,3-thiazol-4-yl}phenol	Paragraph [2541] in 10/681,002; Example 477, 10/915,001
<i>N</i> -{[4-(3,5-di- <i>tert</i> -butylphenyl)-1,3-thiazol-2-yl]methyl}- <i>N</i> -methylaniline	Paragraph [2543] in 10/681,002; Example 478, 10/915,001
<i>N</i> -methyl- <i>N</i> -{[4-(3,4,5-trimethoxyphenyl)-1,3-thiazol-2-yl]methyl}amine	Paragraph [2548] in 10/681,002; Example 479, 10/915,001
ethyl <i>N</i> -{[4-(3,5-di- <i>tert</i> -butyl-4-hydroxyphenyl)-1,3-thiazol-2-yl]methyl}glycinate	Paragraph [2553] in 10/681,002; Example 494, 10/915,001

<i>N</i> -{[4-(3,5-di- <i>tert</i> -butyl-4-hydroxyphenyl)-1,3-thiazol-2-yl]methyl}glycine	Paragraph [2552] in 10/681,002; Example 481, 10/915,001
2,6-di- <i>tert</i> -butyl-4-{2-[(4-methoxypiperidin-1-yl)methyl]-1,3-thiazol-4-yl}phenol	Claim 2 in 10/681,002; Example 482, 10/915,001
<i>N</i> -methyl- <i>N</i> -{(1 <i>S</i> )-2-methyl-1-[4-(10 <i>H</i> -phenothiazin-2-yl)-1,3-thiazol-2-yl]propyl}amine	Claim 2 in 10/681,002
<i>N</i> ,2-dimethyl-1-[4-(10-methyl-10 <i>H</i> -phenothiazin-2-yl)-1,3-thiazol-2-yl]propan-1-amine	Example [2528] in 10/681,002; Example 471, 10/915,001
<i>N</i> -methyl- <i>N</i> -{(1 <i>S</i> )-2-methyl-1-[4-(10 <i>H</i> -phenoxazin-2-yl)-1,3-thiazol-2-yl]propyl}amine	Claim 2 in 10/681,002; Example 485, 10/915,001
4-{2-[(1 <i>R</i> )-1-aminoethyl]-1,3-thiazol-4-yl}-2,6-di- <i>tert</i> -butylphenol	Claim 2 in 10/681,002; Example 486, 10/915,001
4-{2-[(1 <i>S</i> )-1-aminoethyl]-1,3-thiazol-4-yl}-2,6-di- <i>tert</i> -butylphenol	Claim 2 in 10/681,002; Example 487, 10/915,001
4-[2-(1-aminocyclopropyl)-1,3-thiazol-4-yl]-2,6-di- <i>tert</i> -butylphenol	Claim 2 in 10/681,002; Example 488, 10/915,001
4-{2-[(methylamino)methyl]-1,3-thiazol-4-yl}benzene-1,2-diol	Claim 2 in 10/681,002; Example 489, 10/915,001
<i>N</i> -methyl- <i>N</i> -{(1 <i>R</i> )-2-methyl-1-[4-(10 <i>H</i> -phenothiazin-2-yl)-1,3-thiazol-2-yl]propyl}amine	Claim 2 in 10/681,002
(1 <i>R</i> )-2-methyl-1-[4-(10 <i>H</i> -phenothiazin-2-yl)-1,3-thiazol-2-yl]propan-1-amine	Claim 2 in 10/681,002
<i>N</i> -methyl- <i>N</i> -{(1 <i>R</i> )-2-methyl-1-[4-(10 <i>H</i> -phenoxazin-2-yl)-1,3-thiazol-2-yl]propyl}amine	Claim 2 in 10/681,002; Example 492, 10/915,001
<i>N</i> <sup>2</sup> -{[4-(3,5-di- <i>tert</i> -butyl-4-hydroxyphenyl)-1,3-thiazol-2-yl]methyl}glycinamide	Paragraph [2587] in 10/681,002; Example 493, 10/915,001
ethyl <i>N</i> -{[4-(3,5-di- <i>tert</i> -butyl-4-hydroxyphenyl)-1,3-thiazol-2-yl]methyl}- <i>N</i> -	Paragraph [2589] in 10/681,002; Example 494, 10/915,001

(2-ethoxy-2-oxoethyl)glycinate	
4-(3,5-di- <i>tert</i> -butyl-4-methoxyphenyl)-2-(methoxymethyl)-1,3-thiazole	Claim 11 in 10/681,002; Example 495, 10/915,001
4-[2-(1-aminocyclopentyl)-1,3-thiazol-4-yl]-2,6-di- <i>tert</i> -butylphenol	Example 496, 10/915,001

Regarding 4-[2-(1-aminocyclopentyl)-1,3-thiazol-4-yl]-2,6-di-*tert*-butylphenol, the Examiner takes the position that the HCl salt does not provide support to a claim to the compound and any salt thereof. Applicants respectfully disagree. Specifically, Example 496.4 (column 212, lines 9-16, of the issued patent 7,291,641 from Application 10/915,001) illustrates a procedure for the preparation of one of the salt forms of 4-[2-(1-aminocyclopentyl)-1,3-thiazol-4-yl]-2,6-di-*tert*-butylphenol. This is in no way meant to be limiting to only hydrochloride salts of this compound. Indeed, in column 76, lines 48-54, the patent states “the compounds of the invention...will then preferably [be] chosen from the compounds of Examples 470 to 496, and salts of these compounds.” Thus, the HCl salt disclosed in Example 496 is merely illustrative of one particular salt form, and provides enablement to the compound, 4-[2-(1-aminocyclopentyl)-1,3-thiazol-4-yl]-2,6-di-*tert*-butylphenol, as set forth in the specification. For these reasons, Applicants respectfully disagree with the Examiner, and submit that 4-[2-(1-aminocyclopentyl)-1,3-thiazol-4-yl]-2,6-di-*tert*-butylphenol is fully enabled in application 10/915,001 (U.S. Patent 7,291,641). The same is true for the salt forms of the other compounds claimed in claim 1 with respect to the Examples in application 10/915,001 as referenced in the table above.

### **Double Patenting**

The Examiner has rejected claims 1, 4, and 5, on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 35, 37, 38, 50, and 51 of copending Application No. 10/681,002. Applicants note that Application No. 10/681,002 was expressly abandoned and therefore this rejection is now moot.

**Rejection under 35 U.S.C. § 102(b)**

Claims 1, 4, and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by WO 02/083656. However, this publication corresponds to PCT/FR02/01218, to which this application claims priority through 10/915,001. As discussed above, these applications provide support for N,2-dimethyl-1-[4-(10H-phenothiazin-2-yl)-1,3-thiazol-2-yl]propan-1-amine and the other claimed compounds listed in the table. Thus, Applicants believe that this rejection is improper and should be withdrawn.

**Rejection under 35 U.S.C. § 102(e)**

Claims 1 and 3-5 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,291,641 ("the '641 patent"). The Examiner states that the '641 patent discloses compounds such as Example 496, which is the hydrochloride salt of 4-[2-(1-aminocyclopentyl)-1,3-thiazol-4-yl]-2,6-di-*tert*-butylphenol. As discussed above with respect to the priority of the instant application, the '641 patent corresponds to Application No. 10/915,001, to which the instant application claims priority. As demonstrated above, Application No. 10/915,001 is enabling for 4-[2-(1-aminocyclopentyl)-1,3-thiazol-4-yl]-2,6-di-*tert*-butylphenol and salt forms thereof. Therefore, it is respectfully requested that the Examiner grant Applicants their priority claim to Application No. 10/915,001. This application is, as a result, not prior art against the present application. Applicants submit that this rejection is improper and should be withdrawn.

**Rejections Under 35 U.S.C. § 103(a)**

Claims 1, 4, and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over US 2004/0132788 or WO 01/26656. Applicants respectfully disagree and traverse this rejection. As discussed above with respect to priority, US 2004/0132788 corresponds to Application No. 10/681,002, and WO 01/26656 corresponds to PCT/FR00/02805. Both of these applications are listed in the claim for priority in the instant application. In addition, Applicants provide the following statement.

Application 10/575,249, US 2004/0132788 and WO 01/26656 were, at the time the invention of Application 10/575,249 was made, owned by SOCIETE DE CONSEILS DE RECHERCHES ET D'APPLICATIONS SCIENTIFIQUES (S.C.R.A.S.).

In light of the above, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

**REQUEST FOR ALLOWANCE**

For all the reasons set forth above, an indication of allowance of all claims is solicited. In the event any outstanding issues remain in the Application, the Examiner is more than welcome to telephone the undersigned counsel to resolve any such issues in the interest of expediency and to further place the application in condition for allowance.

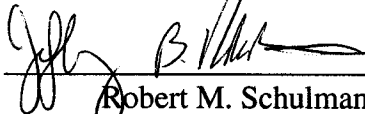
The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 C.F.R. § 1.16 and § 1.17 associated with this communication or credit any overpayment to the deposit account of Hunton & Williams, Deposit Account Number 50-0206.

Respectfully submitted,

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